

Remarks

Status of the Claims

Claims 1-14 were previously pending. In this response, claims 1-14 are amended, and new claims 18-23 are added. The amendments to the claims find full support throughout the Applicant's originally filed Specification.

Objections to the Specification:

In the Office Action, the Examiner objected to the Specification for not including cross reference information. Accordingly, the Specification has been amended to include cross reference information.

Nonstatutory Double Patenting Rejection:

Claims 1-14 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-16 of copending Application No. 10/552,856. Claims 1-14 also stand rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-22 of U.S. Patent No. 7,490,641.

Applicant takes note of the double patenting rejections, and is filing herewith a terminal disclaimer.

Claim Rejections under 35 U.S.C. § 112

Claims 1-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Applicant respectfully requests withdrawal of this rejection, in light of the amendments and remarks.

In the Office Action, the Examiner rejected claim 1 for not positively reciting the "movable cutting elements nor the movable guiding elements"; claim 5 for not providing sufficient antecedent basis for "the workpiece data"; and claim 10 for not positively reciting the "trimmer." It is respectfully submitted that claims 1 and 10, as amended,

positively recite the above-mentioned elements, and claim 5 provides the proper antecedent basis for “workpiece data.”

With respect to claims 1 and 13, the Examiner further asked: “What is the means for setting the size operatively coupled/connected to? How does the interrogator mechanically cooperate with the rest of the positively recited limitations?”

Regarding the Examiner’s further questions, the Applicant respectfully asserts that the means for setting the size of gaps “shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” 35 U.S.C. § 112, sixth paragraph. The means for setting the size of gaps are described throughout the specification. *See, e.g.*, Specification at page 8, lines 1-19 (explaining that the means for setting the size of gaps may include means for accelerating the workpiece, and that the means for accelerating the workpiece may include certain devices); page 19, line 22 – page 21, line 30; page 28, line 27 – page 42, line 20 (devices used for gap optimization); etc. In any event, claim 1 has been amended to recite, in part, “means, operably coupled to the workpiece feed path, for setting the size of gaps.” This amendment was made solely to provide clarity for the Examiner, and in no way was it intended to limit the scope of the claim beyond that afforded by 35 U.S.C. § 112, sixth paragraph.

As for the Examiner’s question about how the interrogator mechanically cooperates with the rest of the positively recited limitations, claim 1 recites, in part, that the workpiece interrogator is “operably coupled to the control system.” The control system is a positively recited element of claim 1.

It is respectfully submitted that claims 1-14 comply with the requirements of 35 U.S.C. § 112, second paragraph.

Claim Rejections under 35 U.S.C. § 102

Claims 1-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Davenport et al. (U.S. 5,417,265, hereinafter "Davenport"). The Applicant respectfully disagrees with the rejection of claims 1-14.

Amended claim 1 sets forth, in part, an optimizing planer "wherein the optimizing planer moves at least one of the movable guiding elements and the movable cutting elements...according to the control information for each workpiece"; a control system that "provides the optimizing planer with control information based upon the workpiece property information for each workpiece"; and "means, operably coupled to the workpiece feed path, for setting the size of gaps between successive workpieces in the array of workpieces being translated linearly into the planer, so that each gap provides enough time for relative movement of at least one of the movable cutting elements in the planer and the movable guiding elements so as to obtain optimized positioning corresponding to the workpiece being next fed into the planer."

At a minimum, Davenport does not teach or suggest the above-mentioned features of independent claim 1. Davenport fails to teach or suggest an optimizing planer that "moves at least one of the movable guiding elements and the movable cutting elements...according to control information for each workpiece," as required by claim 1. Rather, Davenport merely teaches an infed system for delivering pieces of lumber to a machining device. Davenport, Abstract.

Davenport also fails to teach or suggest a control system that "provides the optimizing planer with control information based upon the workpiece property information for each workpiece." In fact, Davenport fails to teach any form of communication of workpiece property information to an optimizing planer.

Finally, Davenport fails to teach or suggest "means, operably coupled to the workpiece feed path, for setting the size of gaps between successive workpieces in the array of workpieces being translated linearly into the planer, so that each gap provides

enough time for relative movement of at least one of the movable cutting elements in the planer and the movable guiding elements so as to obtain optimized positioning corresponding to the workpiece being next fed into the planer." Although it may teach "timing means" which are responsive to signals from the "scanning means," Davenport is only concerned with preventing overlap between pieces of lumber while minimizing gaps. Davenport, col. 9, line 65 – col. 10, line 15. Furthermore, Davenport teaches that the gap preferably be fixed at a width of two times that of the lumber. Davenport, col. 8, lines 16-17. Davenport simply does not teach or suggest setting the size of gaps based on the relationship between the size of gaps and the time required for the movement of the cutting and guiding elements to obtain optimized positioning corresponding to the next workpiece, as required by Applicant's independent claim 1. As such, Davenport cannot be said to anticipate or render obvious Applicant's independent claim 1. Claims 2-14 each depend upon independent claim 1, and are therefore allowable for the same reasons adduced above relative to claim 1, as well as for their own additional limitations.

Claims 1-14 were additionally rejected under 35 U.S.C. § 102(b) as being anticipated by Mierau et al. (U.S. 5,765,617, hereinafter "Mierau") or Kennedy et al. (U.S. 5,884,682, hereinafter "Kennedy") or Bowlin et al. (U.S. 4,879,659, hereinafter "Bowlin"). Again, the Applicant respectfully disagrees with the rejection of claims 1-14.

At a minimum, each of Mierau, Kennedy, and Bowlin fail to teach or disclose "means, operably coupled to the workpiece feed path, for setting the size of gaps between successive workpieces in the array of workpieces being translated linearly into the planer, so that each gap provides enough time for relative movement of at least one of the movable cutting elements in the planer and the movable guiding elements so as to obtain optimized positioning corresponding to the workpiece being next fed into the planer," as required by Applicant's independent claim 1.

Mierau teaches an infeed system that orients a log for a processing unit. Mierau, Abstract. Kennedy teaches a method of position-based integrated motion-controlled

curve sawing. Kennedy, Abstract. Bowlin teaches a system for processing logs. Bowlin, Abstract. Each of these references, however, fails to provide any teaching or disclosure of a means for setting the size of the gap between successive workpieces. Thus, it is respectfully submitted that each of Mierau, Kennedy, and Bowlin fail to anticipate or render obvious Applicants' independent claim 1, or any of claims 2-14 which depend thereupon.

New Claims:

New claim 18 ultimately depends upon independent claim 1. As such, it is allowable over the cited references for at least the reasons adduced above relative to independent claim 1.

Independent claim 19 substantially incorporates the subject matter of claim 1 while eliminating the means-plus-function language of claim 1, and thus does not depend on the functional language and structural limitations set forth in the specification. . As such, it is respectfully submitted that new claim 19 is allowable over the cited references for at least the same reasons as those discussed above with respect to claim 1. New claims 20-23 depend upon independent claim 19 and are thus allowable over the cited references for at least the same reasons as claim 19.

Conclusion

For at least the foregoing reasons, the Applicant respectfully submit that all pending claims are in a condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

It is noted that claimed subject matter may be patentably distinguished from the cited references for reasons in addition to those set forth herein, reasons such as those articulated in papers previously submitted regarding the subject application. Likewise, it is noted that the Applicant's failure, if any, to comment directly upon any of the positions asserted in the Office Action does not indicate tacit agreement or acquiescence with those asserted positions.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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